



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

OFFICE OF
COMPLIANCE AND ENFORCEMENT

APR - 6 2017

Reply To: OCE-101

Chairman Bob Kelly
Nooksack Indian Tribe
5016 Deming Road
Deming, Washington 98244

RE: Administrative Orders to Address Safe Drinking Water Act Violations by Six Public Water Systems Owned and Operated by the Nooksack Indian Tribe

Dear Chairman Kelly:

The U.S. Environmental Protection Agency (EPA) has determined that violations of the Safe Drinking Water Act (SDWA) have occurred at the public water systems referenced below (Systems) and Administrative Orders are necessary to protect public health. Enclosed you will find six Unilateral Administrative Orders (Orders) which set forth the violations at the Systems and requires the Nooksack Indian Tribe, as owners and operators of the Systems, to comply with the SDWA.

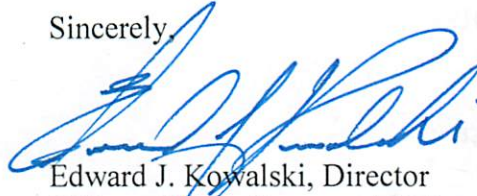
The Orders will become effective immediately upon receipt and shall remain effective until: 1) the Nooksack Indian Tribe has demonstrated compliance with the requirements contained therein; and 2) EPA has issued a closure letter.

This letter continues the consultation and coordination process between EPA and the Nooksack Indian Tribe on SDWA violations at the Systems. Most recently, on March 27, 2017, EPA sent a letter with six proposed Consent Orders to you as Chair of the Nooksack Indian Tribe. The Consent Orders contained steps and schedules to bring the Systems (Five Cedars Water System; Nooksack River Casino Water System; Northwood Casino Water System; Rutsatz Road Water System; Sulwhanon Water System; and Whispering Cedars Water System) back into compliance. The letter also informed the Nooksack Indian Tribe that EPA would issue Unilateral Consent Orders, in the absence of signed Consent Orders or evidence of full return to compliance by April 3, 2017. The EPA received no response to this letter by the Nooksack Indian Tribe. Accordingly, EPA is now issuing these six Orders to require compliance with SDWA and ensure the Systems' water is safe to drink.

Keep in mind that the Systems must not only comply with the terms of the Orders but also all other applicable SDWA requirements. In addition, any person who violates the Orders is subject to civil penalties and additional enforcement. Finally, EPA may take additional enforcement actions against the Nooksack Indian Tribe for other SDWA violations not included in the Orders.

If the Nooksack Indian Tribe has questions about the Orders, please contact me at (206) 553-6695, or Adam Baron at (206)553-6361 or baron.adam@epa.gov or have your legal counsel contact Robert Hartman at (206) 553-0029 or hartman.robert@epa.gov. Thank you for your prompt attention to this important matter.

Sincerely,



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Encl:

1. Administrative Order for Five Cedars Water System
2. Administrative Order for Nooksack River Casino Water System
3. Administrative Order for Northwood Casino Water System
4. Administrative Order for Rutsatz Road Water System
5. Administrative Order for Sulwhanon Water System
6. Administrative Order for Whispering Cedars Water System

cc: Mr. Rick D. George, Vice-Chairman, Nooksack Indian Tribe
Ms. Katherine Canete, General Manager, Nooksack Indian Tribe
Ms. Agripina Smith, Treasurer, Nooksack Indian Tribe
Ms. Nadene Rapada, Secretary, Nooksack Indian Tribe
Mr. Bob Solomon, Councilmember, Nooksack Indian Tribe
Ms. Lona Johnson, Councilmember, Nooksack Indian Tribe
Ms. Charity Bernard, Chief of Staff, Nooksack Indian Tribe
Mr. Rickie Wayne Armstrong, Tribal Attorney, Nooksack Indian Tribe
Mr. Richard Edwards, Director, Facilities and Maintenance, Nooksack Indian Tribe
Mr. Oliver Grah, Water Resource Manager, Nooksack Indian Tribe
Mr. Joseph Johnson-Bob, Water System Operator, Nooksack Indian Tribe
Mr. Michael O'Shea, Indian Health Services, U.S. Department of Health and Human Services
Mr. Matty Haith, Indian Health Services, U.S. Department of Health and Human Services

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0013
Five Cedars Apartments)	
Public Water System)	
(ID# 105300028)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
_____ Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe (“Respondent”) owns and/or operates the Five Cedars Apartments Public Water System (“System”) located on the Nooksack Indian Tribe

Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 155 persons including 33 residents and an elder housing complex through 35 service connections.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of Section 1401(15) of SDWA, 42 U.S.C. § 300(f)(15), and 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R. § 141, Subpart Q requires community water systems to distribute to their customers and the primacy agency an annual Consumer Confidence Report ("CCR") containing certain information and certify to the primacy agency that the report has been sent within three months of distribution to their customers. Respondent failed to provide the CCR for the System and/or certify its distribution to EPA covering the following report years: 2011, 2012, 2014, and 2015. Therefore, Respondent violated these requirements.

3.2. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies

or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on September 30, 2011 following the sanitary survey of the System conducted on August 25, 2011. *See* Attachment A. On June 14, 2012, EPA approved Respondent’s CAP addressing significant deficiencies identified in EPA’s letter of September 30, 2011. Respondent subsequently failed to meet the schedule in the approved CAP. EPA provided Respondent with a notice of being out of compliance with the CAP on August 1, 2014, to which EPA did not receive a response. Therefore, Respondent violated this requirement.

3.3. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 and 3.2 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations, and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. Within 60 days of the effective date of this Order, Respondent shall prepare a CCR based on 2016 monitoring results and distribute the CCR via mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. Respondent shall also mail a copy of the CCR to EPA and provide a certification notice to EPA that states that the CCR has been distributed to its customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to EPA.

4.2. Within 180 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's September 30, 2011 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP to be approved by EPA.

4.3. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 and 3.2 above.

4.4. Within 60 days of the effective date of this Order, Respondent shall send EPA a copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.5. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the System via any other method reasonably calculated to reach persons regularly served by the System who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places or on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.4.

5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any

applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of this Order Pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

September 30, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joe Bob, Lead Operator
Nooksack Indian Tribe
PO Box 157
Deming Washington 98244

Re: Sanitary Survey Significant Deficiencies at Five Cedars, #105300028

Dear Mr. Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant Warren Nilchee, Jr., on August 25, 2011. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Five Cedars, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact Chan Pongkhamsing at (206) 553-1806 or Pongkhamsing.chan@epa.gov or me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Jacobsen", is written over a horizontal line.

for Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
Corrective Action Plan Instructions

cc: Warren Nilchee, Jr., Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300028
System Name:	FIVE CEDARS COMMUNITY WATER SYSTEM
Primary Source:	Groundwater
Sanitary Survey Date:	8/25/2011
Surveyor:	WARREN NILCHEE, JR.
Notice Date:	9/30/2011

Corrective Action Plan Due Date:	2/7/2012
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Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-01 - Sources - Improper well or spring sanitary cap, vent, and/or seal. - Correct Deficiency		2/7/2012	
WL-01 - Sources - No raw sample tap. - Correct Deficiency		2/7/2012	
WL-01 - Sources - High risk of GWUDI due to nearby surface water source, GWUDI assessment needed. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-02 (Inactive Well) - High risk of contaminating nearby well if well is not being used or abandoned - Provide Corrective Action Plan			
ST-02 (Clearwell) - Finished Storage - No safe access to storage structure due to tank elevation, dirt fill and no access walk way. - Provide Corrective Action Plan			
ST-02 (Clearwell) - Finished Storage - Improper storage overflow. - Provide Corrective Action Plan			
ST-02 (Booster pump on Clearwell) - Pumps, Pump Controls, and Pump Facilities - Inadequate pump house ventilation or fiberglass enclosure - Provide Corrective Action Plan			
Management/Operation Cap - Management - Written standard operating protocol needed. - Provide Corrective Action Plan			
Management/Operation Cap - Management - Emergency response plan needed. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
Management/Operation Cap - Management - Cross-connection control program needed. - Provide Corrective Action Plan			

List any additional attachments included with this plan:

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Name (print)

address

Phone

email

Signature

Date

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
EPA Use Only			
<div> <div>_____</div> <div>approved by (print)</div> </div>		<div>_____</div> <div>consultation date</div>	<div>_____</div> <div>closed date</div>
<div>_____</div> <div>Compliance Officer Signature</div>		<div>_____</div> <div>Date</div>	

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0012
Nooksack River Casino)	
Public Water System)	
(ID# 105300084)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
_____ Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Nooksack River Casino Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 100 employees and 1100 customers per day.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 25 of the same persons over six months per year and is therefore a "non-transient non-community water system" within the meaning of 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R. § 141.853 (a)(1) and 40 C.F.R. § 141.860 (c)(1) require public water systems to collect all required total coliform samples according to the written sample siting plan. Respondent failed to take every required routine sample at the System for the months of January through October 2016. Therefore, Respondent violated these requirements.

3.2. 40 C.F.R. § 141.132(c)(1) requires public water systems to measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled. Respondent violated 40 C.F.R. § 141.132(c)(1) by failing to measure the System for the residual disinfectant level at the same point in the

distribution system and at the same time as total coliforms should have been sampled during for the months January through October 2016. Therefore, Respondent violated these requirements.

3.3. 40 C.F.R. § 141.86 requires non-transient non-community water systems to collect lead and copper samples at certain points in the distribution system, after meeting certain conditions, once every three years in the sampling period of June through September. After meeting these conditions, Respondent failed to monitor the System in 2014 for lead and copper within the sampling period three years after the previous monitoring, which was received by EPA on July 26, 2011. Therefore, Respondent violated this requirement.

3.4. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on November 5, 2013 following the sanitary survey of the System conducted on August 15, 2013. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. EPA provided Respondent a notice of being out of compliance with this requirement to the operators on April 2, 2014, and to the Chairman of the Nooksack Tribe on April 29, 2014, to which EPA did not receive a response. Therefore, Respondent violated this requirement.

3.5. 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shortest. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours the failure to comply with

any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.1 through 3.4 above.

3.6. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 through 3.4 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations, and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. For at least three consecutive months after the receipt of this Order, Respondent shall collect all required total coliform samples at sample site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than the 10th day of the month following the month the samples are collected.

4.2. For at least three consecutive months after the receipt of this Order, Respondent shall measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled. Results must be submitted to EPA no later than the 10th day of the month following the month the samples are collected.

4.3. By no later than September 30, 2017, Respondent shall collect first-draw lead and copper tap samples at the ten tier one site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than October 10, 2017.

4.4. Within 60 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's November 5, 2013 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.5. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 through 3.4 above.

4.6. Within 60 days of the effective date of this Order, Respondent shall send EPA a copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.7. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the system via any other method reasonably calculated to reach persons regularly served by the system who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places or on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.

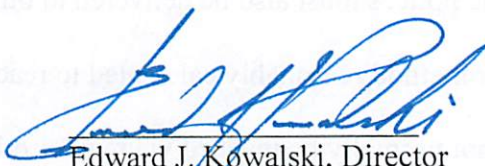
5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of the Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

November 5, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joseph Johnson-Bob
Nooksack Indian Tribe
P.O. Box 157
Deming, WA 98244

Re: Sanitary Survey Significant Deficiencies at Nooksack River Casino, #105300084

Dear Mr. Johnson-Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant James Earl, on August 15, 2013. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Nooksack River Casino, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in black ink, reading "Lisa Jacobsen", is written over the typed name.

Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
Corrective Action Plan Instructions

cc: James Earl, Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300084
System Name:	Nooksack River Casino Water System
Primary Source:	Groundwater
Sanitary Survey Date:	8/15/2013
Surveyor:	James Earl
Notice Date:	11/5/2013

Corrective Action Plan Due Date:	3/15/2014
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Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
Nooksack River Casino Public Water System - Operator Compliance - Need manager certified at the appropriate level. - Provide Corrective Action Plan			
Nooksack River Casino Public Water System - Management - Written standard operating protocol needed. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
Nooksack River Casino Public Water System - Management - Emergency response plan needed. - Provide Corrective Action Plan			
Nooksack River Casino Public Water System - Management - Cross-connection control program needed. - Provide Corrective Action Plan			
Nooksack River Casino Public Water System - Sources - No raw sample tap. - Correct Deficiency		3/15/2014	
-			
-			
-			
-			
-			

List any additional attachments included with this plan:

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Name (print) address

Phone email

Signature Date

EPA Use Only		
approved by (print) _____	consultation date _____	closed date _____
Compliance Officer Signature _____		Date _____

Attachment B

River Casino Monitoring Program Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	RC-04, RC-08, RC-09, and RC-11	Two	Monthly	1st week of the month. Record chlorine residual on lab slip.
Nitrate (40 CFR §141.23(d))	RC-01	One	Annual	Anytime between 01/01/14-12/31/14
IOCs (40 CFR §141.23)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
VOCs (40 CFR §141.24)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
SOCs (40 CFR §141.24)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
Lead & Copper* (40 CFR §141.80)	RC-02, RC-03, RC-04, RC-05, RC-06, RC-07, RC-08, RC-09, RC-10 and RC-11	Ten	3 years	Anytime between 06/01/14-09/30/14
TTHM & HAA5 (Stage 2 Rule 40 CFR Part 141 Subpart V)	RC-02 and RC-06	One TTHM One HAA5 at each site		Anytime between 8/1/14 – 8/31/14

* If you are no longer able to collect a lead and copper sample from a site listed in the Monitoring Program Summary, please contact your TUC to help identify a new sample site.

NOTE: EPA sampling requirements for IOC, VOC, and SOC are based on the Federal Analyte Lists shown on pages 7-9 Supply these lists to the laboratory doing the analysis. Washington/Idaho State lists do not always meet EPA requirements.

Water Source Sampling Note: To perform a finished water sample, the well pump to be sampled should be run manually in hand for 5 minutes before collecting a sample.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0011
Northwood River Casino)	
Public Water System)	
(ID# 105300147)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
_____ Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Part 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Nooksack River Casino Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 100 employees and 900 customers per day.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 25 of the same persons over six months per year and is therefore a "non-transient non-community water system" within the meaning of 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R. § 141.86 requires non-transient non-community water systems to collect lead and copper samples at certain points in the distribution system, after meeting certain conditions, once every three years in the sampling period of June through September. After meeting these conditions, Respondent failed to monitor the System in 2014 for lead and copper within the sampling period three years after the previous monitoring, which was received by EPA on July 28, 2011. Therefore, Respondent violated this requirement.

3.2. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or

develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on October 23, 2013 following the sanitary survey of the System conducted on August 15, 2013. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. EPA provided Respondent a notice of being out of compliance with this requirement to the operators on April 2, 2014, and to the Chairman of the Nooksack Tribe on April 29, 2014, to which EPA did not receive a response. Therefore, Respondent violated this requirement.

3.3. 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shortest. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours the failure to comply with any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.1 and 3.2 above.

3.4. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 and 3.2 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations, and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. By no later than September 30, 2017, Respondent shall collect first-draw lead and copper tap samples at the ten tier one site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than October 10, 2017.

4.2. Within 60 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's October 23, 2013 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.3. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 and 3.3 above.

4.4. Within 60 days of the effective date of this Order, Respondent shall send EPA a copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.5. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the System via any other method reasonably calculated to reach persons regularly served by the System who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places, on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.

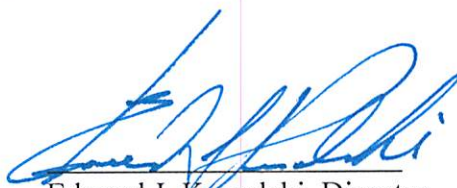
5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of the Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

October 23, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joseph Johnson-Bob
Nooksack Indian Tribe
P.O. Box 157
Deming, WA 98244

Re: Sanitary Survey Significant Deficiencies at Northwood Casino, #105300147

Dear Mr. Johnson-Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant James Earl, on August 15, 2013. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Northwood Casino, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in black ink that reads "Lisa Jacobsen".

Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
Corrective Action Plan Instructions

cc: James Earl, Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300147
System Name:	Nooksack Northwood Casino Water System
Primary Source:	Groundwater
Sanitary Survey Date:	8/15/2013
Surveyor:	James Earl
Notice Date:	10/23/2013

Corrective Action Plan Due Date:	3/2/2014
---	----------

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
Nooksack Northwood Casino Public Water System - Operator Compliance - Need manager certified at the appropriate level. - Provide Corrective Action Plan			
Nooksack Northwood Casino Public Water System - Management - Written standard operating protocol needed. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
Nooksack Northwood Casino Public Water System - Management - Emergency response plan needed. - Provide Corrective Action Plan			
Nooksack Northwood Casino Public Water System - Management - Cross-connection control program needed. - Provide Corrective Action Plan			
-			
-			
-			
-			
-			
-			

List any additional attachments included with this plan:

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	

Name (print)

address

Phone

email

Signature

Date

EPA Use Only

approved by (print)

consultation date

closed date

Compliance Officer Signature

Date

Attachment B

Northwood Casino Monitoring Program Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	NC-02 and NC-06	One	Monthly	1st week of the month. Record chlorine residual on lab slip.
Nitrate (40 CFR §141.23(d))	NC-13	One	Annual	Anytime between 01/01/14 -12/31/14
IOCs (40 CFR §141.23)	NC-13	One	3 years	Anytime between 01/01/14 -12/31/16
VOCs (40 CFR §141.24)	NC-13	One	3 years	Anytime between 01/01/14 -12/31/16
SOCs (40 CFR §141.24)	NC-13	One	3 years	Anytime between 01/01/14 -12/31/16
Lead & Copper* (40 CFR §141.80)	NC-02, NC-03, NC-04, NC-05, NC-06, NC-07, NC-08, NC-09, NC-10, NC-11	Ten	3 years	Anytime between 06/01/14-09/30/14
TTHM & HAA5 (40 CFR Part 141 Subpart V)	NC-07 and NC-11	One TTHM One HAA5 from each site	Annual	Anytime between 8/1/14 – 8/31/14

* If you are no longer able to collect a lead and copper sample from a site listed in the Monitoring Program Summary, please contact your TUC to help identify a new sample site.

NOTE: EPA sampling requirements for IOC, VOC, and SOC are based on the Federal Analyte Lists shown on pages 7-9 Supply these lists to the laboratory doing the analysis. Washington/Idaho State lists do not always meet EPA requirements.

Water Source Sampling Note: To perform a finished water sample, the well pump to be sampled should be run manually in hand for 5 minutes before collecting a sample.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0010
Rutsatz Road)	
Public Water System)	
(ID# 105300088)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Rutsatz Road Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 177 persons through 46 service connections.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of Section 1401(15) of SDWA, 42 U.S.C. § 300(f)(15), and 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the Act and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R. § 141.23(c) requires groundwater systems to sample for inorganic contaminants at every entry point to the distribution system during each compliance period, including asbestos. Respondent violated 40 C.F.R. § 141.23(c) by failing to collect an asbestos sample during the System's initial compliance period as defined in EPA's Standardized Monitoring Framework at 56 F.R. 3526. Therefore, Respondent violated this requirement.

3.2. 40 C.F.R. § 141, Subpart Q requires community water systems to distribute to their customers and the primacy agency an annual Consumer Confidence Report ("CCR")

containing certain information and certify to the primacy agency that the report has been sent within three months of distribution to their customers. Respondent failed to provide a CCR for the System and/or certify its distribution to the EPA covering the following report years: 2012, 2014, 2014, and 2015. Therefore, Respondent violated these requirements.

3.3. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on September 30, 2011 following the sanitary survey of the System conducted on August 31, 2011. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. Therefore, Respondent violated this requirement.

3.4. 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shorter. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours of the failure to comply with any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.1 and 3.3 above.

3.5. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 and 3.3 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. Within 60 days of the effective date of this Order, Respondent shall collect an asbestos sample at each entry point to the distribution system as identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than the 10th day of the month following the month the samples are collected.

4.2. Within 60 days of the effective date of this Order, Respondent shall prepare a CCR based on 2016 monitoring results and distribute the CCR via mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. Respondent shall also mail a copy of the CCR to EPA and provide a certification notice to EPA that states that the CCR has been distributed to its customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to EPA.

4.3. Within 180 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's September 30, 2011 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.4. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 and 3.3 above.

4.5. Within 60 days of the effective date of this Order, Respondent shall send EPA a copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.6. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the System via any other method reasonably calculated to reach persons regularly served by the System who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places, on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.4.

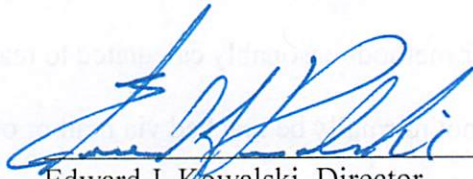
5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.

A handwritten signature in blue ink, appearing to read "Edward J. Kowalski", is written over a horizontal line.

Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

September 30, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joe Bob, Lead Operator
Nooksack Indian Tribe
PO Box 157
Deming Washington 98244

Re: Sanitary Survey Significant Deficiencies at Rutsatz Road, #105300088

Dear Mr. Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant Warren Nilchee, Jr., on August 31, 2011. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Rutsatz Road, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact Chan Pongkhamsing at (206) 553-1806 or Pongkhamsing.chan@epa.gov or me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in black ink, appearing to be "Lisa Jacobsen", written over a horizontal line.

A small handwritten signature or mark, possibly "for", written in black ink.

Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
Corrective Action Plan Instructions

cc: Warren Nilchee, Jr., Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300088
System Name:	RUTSATZ ROAD COMMUNITY WATER SYSTEM
Primary Source:	Groundwater
Sanitary Survey Date:	8/31/2011
Surveyor:	WARREN NILCHEE, JR
Notice Date:	9/30/2011

Corrective Action Plan Due Date:	2/7/2012
---	----------

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-01 - Sources - Well or spring within 100 feet of sewer line. - Provide Corrective Action Plan			
WL-01 - Sources - Well or spring within 100 feet of septic tank. - Provide Corrective Action Plan			
WL-01 - Sources - High risk of GWUDI due to nearby surface water source, GWUDI assessment needed. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-02 - Sources - Casing less than 18 in. above ground or less than 12 in. above pump house floor. - Provide Corrective Action Plan			
WL-02 - Sources - High risk of GWUDI due to nearby surface water source, GWUDI assessment needed. - Provide Corrective Action Plan			
TP-01 - Treatment - Improper instrumentation or process controls. - Provide Corrective Action Plan			
TP-01 - Treatment - Operator training required for use and monitoring of treatment chemicals. - Provide Corrective Action Plan			
DS-01 - Distribution - Inadequate hydrants or blow offs to flush dead end mains. - Provide Corrective Action Plan			
PF-01 - Pumps, Pump Controls, and Pump Facilities - Inadequate pump house ventilation. - Provide Corrective Action Plan			

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
MANAGEMENT - Management - Certified operator needed or operator not certified at the proper level. - Provide Corrective Action Plan			

List any additional attachments included with this plan:

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Name (print)

address

Phone

email

Signature

Date

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	

EPA Use Only		
approved by (print) _____	consultation date _____	closed date _____
Compliance Officer Signature _____		Date _____

Attachment B

EPA #105300088 Rutsatz Rd Monitoring Plan Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	RR-07, RR-08, RR-12, & RR-13 (see schedule)	One (1)	One sample per Month	1 st Week of the month. Record chlorine residual on lab slip.
TTHM & HAA5 (disinfection byproducts) (40 CFR §141 subpart V)	RR-14	One (1)TTHM sample and one(1) HAA5 sample	Annually until notified by EPA	Anytime between 8/1/15 – 8/31/15
Lead & Copper* (40 CFR § 141.80)	Primary sites - RR-05 through RR-09 Alternate site - RR-11. (use kitchen sink tap)*	Five (5)	3 Years	Anytime between 6/1/15 – 9/30/15
Nitrate (40 CFR §141.23)	RR-03 with both wells running	One Finished water tap	Annually	Anytime between 1/1/14 – 12/31/14
IOCs (40 CFR § 141.23)	RR-03 with both wells running	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Asbestos (40 CFR § 141.23)	RR-03 with both wells running	One Finished water tap	9 Years	OVERDUE
VOCs (40 CFR §141.24)	RR-03 with both wells running	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
SOCs (40 CFR §141.24)	RR-03 with both wells running	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Dioxin (40 CFR §141.24)	RR-03 with both wells running	One Finished water tap	3 Years	OVERDUE
Gross Alpha (40 CFR §141.26)	RR-03 with both wells running	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Radium 228 (40 CFR §141.26)	RR-03 with both wells running	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Consumer Confidence Report (CCR)** (40 CFR §141 subpart O)			Yearly	Before July 1st for prior reporting year

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0014
Sulwhanon Housing Development)	
Public Water System)	
(ID# 105300141)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
_____ Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Sulwhanon Housing Development Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 25 homes, four non-residential units, and a community building with an estimated population of approximately 150 persons through 30 service connections.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of Section 1401(15) of SDWA, 42 U.S.C. § 300(f)(15), and 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R § 141.26(a) requires community water systems to sample for gross alpha particle activity and radium-228 at every entry point to the distribution system during each compliance period. Respondent violated 40 C.F.R § 141.26(a) by failing to collect the required gross alpha particle activity and radium-228 samples at the System during the 2011-2013 compliance period as defined in EPA's Standardized Monitoring Framework at 56 F.R. 3526.

Therefore, Respondent violated these requirements.

Administrative Compliance Order

SDWA-10-2017-0014

Page 2

3.2. 40 C.F.R. § 141, Subpart Q requires community water systems to distribute to their customers and the primacy agency an annual Consumer Confidence Report (“CCR”) containing certain information and certify to the primacy agency that the report has been sent within three months of distribution to their customers. Respondent failed to provide the CCR for the System and/or certify its distribution to EPA covering the following report years: 2011, 2012, 2013, 2014, and 2015. Therefore, Respondent violated these requirements.

3.3. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on July 8, 2013 following the sanitary survey of the System conducted on May 29, 2013. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. EPA provided Respondent a notice of being out of compliance with this requirement on December 16, 2013; Respondent did not provide a response to EPA. Therefore, Respondent violated this requirement.

3.4 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shorter. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours of the failure to comply with any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.2 and 3.4 above.

3.5. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons
Administrative Compliance Order
SDWA-10-2017-0014
Page 3

served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraph 3.1 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. Within 60 days of the effective date of this Order, Respondent shall collect gross alpha particle activity, radium-226, radium-228, and uranium samples at the site number identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than the 10th day of the month following the month the samples are collected.

4.2. Within 60 days of the effective date of this Order, Respondent shall prepare a CCR based on 2016 monitoring results and distribute the CCR via mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. Respondent shall also mail a copy of the CCR to EPA and provide a certification notice to EPA that states that the CCR has been distributed to its customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to EPA.

4.3. Within 180 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's July 8, 2013 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.4. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 above.

4.5. Within 60 days of the effective date of this Order, Respondent shall send EPA a

Administrative Compliance Order
SDWA-10-2017-0014
Page 4

copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.6. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the System via any other method reasonably calculated to reach persons regularly served by the System who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places, on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.

5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

July 8, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joseph Johnson-Bob
Nooksack Indian Tribe
P.O. Box 157
Deming, WA 98244

Re: Sanitary Survey Significant Deficiencies at Sulwhanon CWS, #105300141

Dear Mr. Johnson-Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant Warren Nilchee, Jr., on May 29, 2013. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Sulwhanon CWS, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in cursive script that reads "Lisa Jacobsen".

Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
 Corrective Action Plan Instructions

cc: Warren Nilchee, Jr., Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300141
System Name:	SULWHANON COMMUNITY WATER SYSTEM
Primary Source:	Groundwater
Sanitary Survey Date:	5/29/2013
Surveyor:	WARREN NILCHEE, JR.
Notice Date:	7/8/2013

Corrective Action Plan Due Date:	11/15/2013
---	------------

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-01 (SULWHANON) - Sources - Casing less than 18 in. above ground or less than 12 in. above pump house floor. - Provide Corrective Action Plan			
WL-01 (SULWHANON) - Sources - Well or spring within 100 feet of sewer line. - Provide Corrective Action Plan			
WL-01 (SULWHANON) - Sources - No raw sample tap. - Correct Deficiency		11/15/2013	

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-01 (SULWHANON) - Sources - Well or spring within 100 feet of sewer line. - Provide Corrective Action Plan			
WL-01 (GENESIS II) - Sources - Improper or missing well or spring vent. - Correct Deficiency		11/15/2013	
Pump Controls, and Pump Facilities - Inadequate pump house ventilation. - Provide Corrective Action Plan			
MANAGEMENT/OPERATION CAP - Management - Certified operator needed or operator not certified at the proper level. - Provide Corrective Action Plan			
MANAGEMENT/OPERATION CAP - Management - Emergency response plan needed. - Provide Corrective Action Plan			
MANAGEMENT/OPERATION CAP - Management - Cross-connection control program needed. - Provide Corrective Action Plan			
-			

List any additional attachments included with this plan:

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Name (print)

address

Phone

email

Signature

Date

EPA Use Only		
approved by (print)	consultation date	closed date
Compliance Officer Signature	Date	

Attachment B

EPA #105300141 Sulwhanon Monitoring Plan Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	SH-04, SH-05 & G-06 (see schedule)	One	Monthly	1 st Week of the month. Record chlorine residual on lab slip.
TTHM & HAA5 (disinfection byproducts) (40 CFR §141 subpart V)	SH-05	One (1) TTHM sample and one (1) HAA5 sample	Annual	Anytime between 8/1/15 – 8/31/15
Lead & Copper* (40 CFR § 141.80)	Primary sites - SH-03 through SH-07 Alternate site - SH-08 & G-04	Five (5)	3 Years	Anytime between 6/1/15 – 9/30/15
Nitrate (40 CFR §141.23)	SH-02	One Finished water tap	Annual	Anytime between 1/1/15 – 12/31/15
IOCs (40 CFR § 141.23)	SH-02	One Finished water tap	3 Years	Anytime between 1/1/17 – 12/31/19
VOCs (40 CFR §141.24)	SH-02	One Finished water tap	3 Years	Anytime between 1/1/17 – 12/31/19
Dioxin (40 CFR §141.24)	SH-02	One Finished water tap	3 Years	OVERDUE
SOCs – including dioxin (40 CFR §141.24)	SH-02	One Finished water tap	3 Years	Anytime between 1/1/17 – 12/31/19
Gross Alpha (40 CFR §141.26)	SH-02	One Finished water tap	3 Years	OVERDUE
Radium 228 (40 CFR §141.26)	SH-02	One Finished water tap	3 Years	OVERDUE
Consumer Confidence Report (CCR)** (40 CFR §141 subpart O)			Yearly	Before July 1st for prior reporting year

* If you are no longer able to collect a lead and copper sample from a site listed in the Monitoring Program Summary, please contact your TUC to help identify a new sample site

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Nooksack Indian Tribe	)	Docket No. SDWA-10-2017-0009
Whispering Cedars Apartments)	
Public Water System)	
(ID# 105300120)	)	ADMINISTRATIVE COMPLIANCE
	)	ORDER
)	
_____ Respondent.)	

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Whispering Cedars Apartments Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 25 year-round residents at 12 apartment units through two service connections.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of Section 1401(15) of SDWA, 42 U.S.C. § 300(f)(15), and 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

III. VIOLATIONS

3.1. 40 C.F.R. § 141.86 requires community water systems to collect lead and copper samples at certain points in the distribution system, after meeting certain conditions, once every three years in the sampling period of June through September. After meeting these conditions, Respondent failed to monitor the System in 2015 for lead and copper within the sampling period three years after the previous monitoring, which was received by EPA on July 26, 2012.

Therefore, Respondent violated this requirement.

3.2. 40 C.F.R. § 141, Subpart Q requires community water systems to distribute to their customers and the primacy agency an annual Consumer Confidence Report (“CCR”) containing certain information and certify to the primacy agency that the report has been sent within three months of distribution to their customers. Respondent failed to provide a CCR for the System and/or certify its distribution to EPA covering the following report years: 2011, 2012, 2014, and 2015. Therefore, Respondent violated these requirements.

3.3. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on October 26, 2012 following the sanitary survey of the System conducted on September 26, 2012. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. EPA provided Respondent a notice of being out of compliance with this requirement on July 30, 2012; Respondent did not provide a response to EPA. Therefore, Respondent violated this requirement.

3.4. 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shorter. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours of the failure to comply with any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.1 and 3.3 above.

3.5. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons

served by the system of any MCL violations or of any failure to comply with monitoring requirements. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 through 3.3 above to the persons served by the System.

IV. ORDER

Based upon the foregoing Findings and Violations, and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. By no later than September 30, 2017, Respondent shall collect first-draw lead and copper tap samples at the five tier 1 site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than October 10, 2017.

4.2. Within 60 days of the effective date of this Order, Respondent shall prepare a CCR based on 2016 monitoring results and distribute the CCR via mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. Respondent shall also mail a copy of the CCR to EPA and provide a certification notice to EPA that states that the CCR has been distributed to its customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to EPA.

4.3. Within 60 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's October 26, 2013 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.4. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 and 3.3 above.

4.5. Within 60 days of the effective date of this Order, Respondent shall send EPA a

copy of the public notice and a certification that the water system has fully complied with the public notification regulations.

4.6. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the system via any other method reasonably calculated to reach persons regularly served by the system who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places or on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.4.

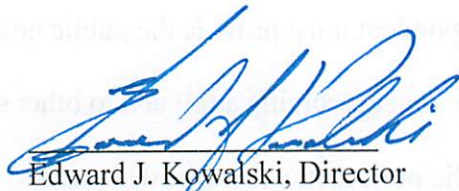
5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.



Edward J. Kowalski, Director
Office of Compliance and Enforcement

Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

October 26, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Joseph Johnson-Bob
Nooksack Indian Tribe
PO Box 157
Deming WA 98244

Re: Sanitary Survey Significant Deficiencies at Whispering Cedars, #105300120

Dear Mr. Johnson-Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant Warren Nilchee, on September 26, 2012. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Whispering Cedars, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact me at (206) 553-6917 or Jacobsen.lisa@epa.gov

Sincerely,

A handwritten signature in black ink that reads "Lisa Jacobsen".

Lisa Jacobsen
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan
 Corrective Action Plan Instructions

cc: Warren Nilchee, Indian Health Services

Corrective Action Plan

EPA Region 10

Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

PWSID:	105300120
System Name:	SUCHANON APTS (WHISPERING CEDAR)
Primary Source:	Groundwater
Sanitary Survey Date:	9/26/2012
Surveyor:	WARREN NILCHEE, JR.
Notice Date:	10/26/2012

Corrective Action Plan Due Date:	3/5/2013
---	-----------------

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
WL-01 /WELL #1 - Sources - Improper well or spring sanitary cap, vent, and/or seal. - Correct Deficiency		3/5/2013	
WL-01 /WELL #1 - Sources - Casing less than 18 in. above ground or less than 12 in. above pump house floor. - Provide Corrective Action Plan			
WL-01 /WELL #1 - Sources - Improper or missing well or spring vent. - Correct Deficiency		3/5/2013	

Deficiency	Schedule to Address Deficiency		Accomplishments (date completed)
	Milestone/Corrective Action Description	Scheduled Date	
TP-01 - Pumps, Pump Controls, and Pump Facilities - Inadequate pump house ventilation. - Provide Corrective Action Plan			
MANAGEMENT - Management - Cross-connection control program needed. - Provide Corrective Action Plan			
-			
-			
-			
-			
-			

List any additional attachments included with this plan:

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Deficiency	Schedule to Address Deficiency		Accomplishments: (date completed)
	Milestone/Corrective Action Description	Scheduled Date	

Name (print) _____ address _____

Phone _____ email _____

Signature _____ Date _____

EPA Use Only		
approved by (print) _____	consultation date _____	closed date _____
Compliance Officer Signature _____		Date _____

Attachment B

EPA #105300120 Whispering Cedars Monitoring Plan Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	WC-04, and WC-05 (see schedule)	One	Monthly	1 st Week of the month. Record chlorine residual on lab slip.
TTHM & HAA5 (disinfection byproducts) (40 CFR §141 subpart V)	WC-07	One (1)TTHM sample and one (1) HAA5 sample	3 Years	OVERDUE must sample 8/1/15 – 8/31/15
Lead & Copper* (40 CFR § 141.80)	Primary sites - WC-03 through WC-07 Alternate site – WC-08.	Five (5)	3 Years	OVERDUE must sample 6/1/15 – 9/30/15
Nitrate (40 CFR §141.23)	WC-02	One Finished water tap	Annual	OVERDUE
IOCs (40 CFR § 141.23)	WC-02	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
VOCs (40 CFR §141.24)	WC-02	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
SOCs – including dioxin (40 CFR §141.24)	WC-02	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16 OVERDUE for dioxin
Gross Alpha (40 CFR §141.26)	WC-02	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Radium 228 (40 CFR §141.26)	WC-02	One Finished water tap	3 Years	Anytime between 1/1/14 – 12/31/16
Consumer Confidence Report (CCR)** (40 CFR §141 subpart O)			Yearly	Before July 1st for prior reporting year CCR DUE BY 7/1/15 MUST INCLUDE RESULTS AND VIOLATIONS FROM 2011 – 2014